

that date will be automatically assigned to the one of two service options that PRTC views as the closest analogue to their current service.⁵⁴

Moreover, the Single Zone Plan constitutes an impermissible tying arrangement. Under antitrust law, tying arrangements violate antitrust laws when the seller leverages its economic power in one market to “force the buyer into the purchase of a tied product that the buyer either did not want at all, or might have preferred to purchase elsewhere on different terms.”⁵⁵ A tying arrangement is *per se* illegal if four basic elements are satisfied: (1) that there are two distinct products; (2) that the seller has required the buyer to purchase the tied product in order obtain the tying product; (3) that the seller has sufficient market power in the market for the tying product to “appreciably restrain free competition” in the tied market, and (4) that the arrangement affects a substantial volume in the tied market.⁵⁶ By making the Single Zone Plan mandatory, PRTC is tying intrastate long distance service to local exchange service. Because of PRTC’s market power, customers are precluded either from avoiding payment for intrastate long distance service that they do not use or from receiving those services from another provider at a lower price or on different terms.⁵⁷

⁵⁴ See Angulo Decl. ¶ 8 & Attach. 2, at Exhibit A hereto.

⁵⁵ *Jefferson Parish Hosp. Dist. No. 2 v. Hyde*, 466 U.S. 2, 12 (1984).

⁵⁶ See *Eastman Kodak Co. v. Image Technical Servs., Inc.*, 504 U.S. 451, 460-64 (1992); *Jefferson Parish*, 466 U.S. at 1558-60.

⁵⁷ The existence of a tying arrangement in the Single Zone Plan would effectively prohibit the development of competition in violation of Section 253(a) of the Act. The Commission has considered the effects of tying arrangements in the context of public interest analyses and other analyses under its statutory jurisdiction. See, e.g., *In re BellSouth Telecomm., Inc.*, 20 FCC Rcd 6830, 6849-50 (2005); *In re Capital Cities/ABC, Inc.*, 11 FCC Rcd 5841, 5856-61 (1996).

Furthermore, the elimination of the intrastate long distance service market means the loss of the entire subscriber base of a competing carrier. The net effect is to moot the value of competitors' statutory rights to dialing parity and nondiscriminatory access contained in Section 251(b)(3) of the Act in the intrastate long distance service market.⁵⁸ That section imposes a duty on all local exchange carriers "to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." Since the Single Zone Plan would eliminate the competing provider's subscribers and, therefore, the need for access, that is tantamount to a denial of dialing parity and nondiscriminatory access.⁵⁹

Moreover, because the Single Zone Plan will result in increased prices for residential customers (as they pay for intrastate long distance service even if they do not use it), and given the low per capita income in Puerto Rico, more residential customers will have to rely on universal service funds to maintain their service. Indeed, the expected increase in availability of Lifeline Program funds has been a major selling point by PRTC before the Puerto Rico Board. PRTC has represented to the Puerto Rico Board that the number of households eligible for funding from the Lifeline Program would

⁵⁸ The Section 251(b)(3) dialing parity duty encompasses international as well as interstate and intrastate, local and toll services. *See In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Red 19392, 19408 (1996).

⁵⁹ In addition, Section 251(g) preserves the equal access obligations previously imposed on the BOCs and GTE. It bears noting again that Verizon owns a controlling interest in PRTC and thus, PRTC may be subject to the equal access obligations of Section 251(g). For the same reasons discussed in the text, the Single Zone Plan would violate Section 251(g).

double.⁶⁰ PRTC has argued to the Puerto Rico Board that the impact of increased prices on consumers resulting from the Single Zone Plan can be safely ignored due to the increased Lifeline Program funds that will be available in Puerto Rico.⁶¹ Essentially, PRTC is telling the Puerto Rico Board that it is sound regulatory policy not to worry about increases in residential local exchange service rates because PRTC can reach into the federal funds cookie jar in order to discount rates so that consumers will not feel the impact of the rate increases. In effect, PRTC is asserting that federal funding can be employed to subsidize the elimination of existing intra-island long distance competition.

Finally, the Single Zone Plan can work to injure Lifeline consumer protection in Puerto Rico. As is the case in many other states, the Puerto Rico Board's Universal Service regulations state that a telecommunication company cannot disconnect a Lifeline program customer's local exchange service due to failure to pay for long distance calls.⁶² Under the Single Zone Plan all intra-island calls would be re-designated as "local." Failure to pay the increased prices under the Single Zone Plan could now result in more Lifeline customers having their service disconnected because PRTC would be able to

⁶⁰ See P.R. Tel. Co. Br. on Treatment of Non-Cost Matters at 45-46 (dated Aug. 29, 2005), *Telefónica Larga Distancia de P.R., Inc. v. P.R. Tel. Co.*, Case Nos. JRT-2005-Q-0121, *et al.* (P.R. Telecomms. Bd.), at Exhibit F hereto. According to PRTC, the number of Puerto Rico households **eligible** to participate in the Lifeline Program has increased from between 425,000 and 450,000 to approximately 880,000 or seventy percent (70%) of all households in Puerto Rico.

⁶¹ See *id.* at 43-45. See also Angulo Decl. Attach. 3, an advertisement of the Single Zone Plan by PRTC prior to the current extension of the effective date, which states:

Almost one million Puerto Rican families will be able to take advantage, starting May 1, of the Subsidy of Telephone Service that will benefit you in your basic monthly rent and your installation charges.

⁶² See P.R. Telecomms. Reg. Bd., Universal Service Regs. § 32.1(h).

disconnect all “local” service from a Lifeline household if it failed to pay the higher monthly rates.

D. Approval of The Single Zone Plan Would Therefore Be Preempted Under Section 253(d) Because It Does Not Fall Within Any of the Reservations of State Authority Under Sections 253(b).

The Single Zone Plan would be preempted under Section 253(d) if approved by the Puerto Rico Board. This Commission has stated that in assessing whether to preempt enforcement of a state action pursuant to Section 253, it will first determine whether such action is proscribed by Section 253(a).⁶³ If, considered in isolation, the state action or legal requirement is proscribed by Section 253(a), the Commission will next determine whether, nonetheless, it falls within the reservation of state authority set forth in Section 253(b),⁶⁴ which provides:

Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.⁶⁵

The Commission has stated that if the state legal requirement is proscribed by Section 253(a) and does not fall within the reservations of Section 253(b), then it must

⁶³ See, e.g., *AVR, L.P.*, 14 FCC Rcd 11064, 11067 (1999); *In re Silver Star Tel. Co.*, 12 FCC Rcd 15639, 15656 (1998); *In re Pub. Util. Comm’n of Tex.*, 13 FCC Rcd 3460, 3480 (1997).

⁶⁴ See, e.g., *AVR, L.P.*, 14 FCC Rcd at 11068; *Silver Star Tel. Co.*, 12 FCC Rcd at 15656; *Pub. Util. Comm’n of Tex.*, 13 FCC Rcd at 3480. Section 253(c) also reserves for state and local governments certain authority with respect to managing rights-of-way. See 47 U.S.C. § 253(c). The Single Zone Plan does not touch upon such issues.

⁶⁵ 47 U.S.C. § 253(b).

preempt the enforcement of that legal requirement in accordance with Section 253(d),⁶⁶ which provides:

If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.⁶⁷

Because approval of the Single Zone Plan by the Puerto Rico Board would violate Section 253(a) and cannot be saved under Section 253(b),⁶⁸ the Commission must declare that implementation of the Single Zone Plan would be preempted pursuant to Section 253(d).⁶⁹ The Commission has interpreted Section 253(d) as a mandatory obligation to preempt: “If a law, regulation, or legal requirement otherwise impermissible under subsection (a) does not satisfy the requirements of subsection (b), we *must* preempt the enforcement of the requirement in accordance with section 253(d).”⁷⁰

The U.S. Court of Appeals for the Ninth Circuit has similarly emphasized that “[t]he [Section 253] preemption is virtually absolute and its purpose is clear—certain aspects of telecommunications regulation are uniquely the province of the federal

⁶⁶ See, e.g., *AVR, L.P.*, 14 FCC Rcd at 11068; *Silver Star Tel. Co.*, 12 FCC Rcd 15639, 15656; *Pub. Util. Comm’n of Tex.*, 13 FCC Rcd at 3480.

⁶⁷ 47 U.S.C. § 253(d).

⁶⁸ The burden of proving that a statute, regulation, or legal requirement comes within the exemptions found in sections 253(b) falls on the party claiming that exception applies. See *In re Minnesota*, 14 FCC Rcd 21697, 21704 n.26 (1999) (citing *In re Pub. Util. Comm’n of Tex.*, 13 FCC Rcd 3460, 3501 (1997) and *In re Silver Star Tel. Co.*, 12 FCC Rcd 15639, 15657 (1997)).

⁶⁹ See *AVR, L.P.*, 14 FCC Rcd 11064, 11067-68 (1999).

⁷⁰ *Pub. Util. Comm’n of Tex.*, 13 FCC Rcd at 3480 (emphasis added). See *AVR, L.P.*, 14 FCC Rcd at 11068; *Silver Star Tel. Co.*, 12 FCC Rcd at 15656.

government and Congress has narrowly circumscribed the role of state and local governments in this arena.”⁷¹

As explained earlier, PRTC already offers an *optional* single-zone calling plan in Puerto Rico in the form of its Puerto Rico Ilimitado Calling Plan. Thus, the Single Zone Plan does not introduce the concept of islandwide local calling; rather, it makes such calling mandatory, thereby leaving the consumer with no ability to continue to subscribe to a basic telephone service as it has always done and does today. Because the *mandatory* Single Zone Plan would have the effect of eliminating the intrastate long distance service market in Puerto Rico, it violates section Section 253(a). Therefore, approval of the Single Zone Plan would be a clear violation of Section 253(a) and thus subject to preemption under Section 253(d).⁷²

E. The Commission’s Jurisdiction

The Commission’s regulations state that “[t]he Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty.”⁷³ The Commission frequently issues declaratory rulings interpreting various sections of the Act.⁷⁴ This Petition requests in the first instance that the Commission issue a declaratory

⁷¹ *City of Auburn v. Qwest Corp.*, 260 F.3d 1160, 1175-77 (9th Cir. 2001).

⁷² *See AVR, L.P.*, 14 FCC Rcd 11064, 11067-68 (1999).

⁷³ 47 C.F.R. § 1.2.

⁷⁴ *See, e.g., In re Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, 20 FCC Rcd 13664 (2005) (interpreting Telephone Consumer Protection Act of 1991); *In re Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, 20 FCC Rcd 10599 (2005) (interpreting section 258 of the Act); *In re Truth-in-Billing and Billing Format*, 20 FCC Rcd 6448 (2005) (interpreting sections 201 and 202 of the Act); *In re Developing a*

ruling interpreting Section 253, *i.e.*, that the Single Zone Plan would violate Section 253(a) if approved by the Puerto Rico Board and would therefore be preempted under Section 253(d). Indeed, it is possible that the issuance of the requested declaratory ruling in a timely manner may make a preemption unnecessary because the Puerto Rico Board may understand the futility of approving the Single Zone Plan.

However, even where preemption has been sought, the Commission has construed its general ability to entertain petitions for declaratory rulings quite broadly, particularly where Section 253(a) is concerned, and those principles are applicable here. In a proceeding seeking preemption of the Arkansas Telecommunications Regulatory Reform Act of 1997, for example, commenters argued that petitioners American Communications Services, Inc. and MCI Telecommunications Corp. lacked standing to seek preemption of the enforcement of the statute because they failed to allege any infringement of a legally protected interest that was “concrete and particularized, actual or imminent, and not conjectural or hypothetical”—the standard for constitutional standing in federal courts.⁷⁵ Commenters also asserted that the issues raised by the Petitions for Expedited Declaratory Ruling were not ripe for adjudication and that they would not be ripe for decision unless and until the Arkansas provision was construed and applied in a specific proceeding. The Commission soundly rejected these arguments, stating that.

It is well established that the justiciability doctrines of standing and ripeness developed by federal courts do not apply to adjudications by federal administrative agencies such as the Commission. Moreover, sections 4(i), 4(j), and 403 of the Communications Act confer upon the Commission broad power to issue orders appropriate for

Unified Intercarrier Compensation Regime, 20 FCC Rcd 4855 (2005) (interpreting sections 251 and 252 of the Act).

⁷⁵ *In re Am. Commc'ns Servs., Inc.*, 14 FCC Rcd 21579, 21589 (1999)

implementing and enforcing the Communications Act. In addition, section 5(e) of the Administrative Procedure Act provides that a federal administrative agency such as the Commission, “in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.” As a result, the Commission can and does adjudicate petitions for declaratory rulings—including petitions for declaratory rulings regarding preemption—when the requirements of the standing and ripeness doctrines are not strictly met.⁷⁶

The Commission also rejected the commenters’ suggestion that it should decline to adjudicate the petitions because ACSI and MCI did not identify a specific application of the Arkansas Act that has caused them some concrete, particularized harm. It found that both companies had a sufficient interest in removing barriers to entry in the local exchange markets simply by virtue of the fact that they provided competing local exchange service in Arkansas, and had expended substantial effort and resources to enter local exchange markets elsewhere around the country. The Commission emphasized that the plain language of Section 253 empowers the Commission to preempt upon its own motion and stated that it could therefore preempt “in the absence of a directly aggrieved party or even a petition seeking preemption.”⁷⁷ Moreover, declaratory ruling are by their nature preventative, and the Commission’s decisions indicate that in issuing such rulings it is irrelevant that a potential legal requirement under Section 253(a) has not yet resulted in any discriminatory effects.⁷⁸

The facts presented here are more compelling than those in *American Communications Services*. As demonstrated above, the Single Zone Plan could go into

⁷⁶ *Id.*

⁷⁷ *Id.* at 21590.

⁷⁸ *See In re Minnesota*, 14 FCC Rcd 21697 (1999) (reviewing and preempting state agreement which had not yet been implemented).

effect as early as January 6, 2006. Further, the terms of the Single Zone Plan are known, rather than hypothetical, and TLD has shown how the Single Zone Plan as filed would adversely and immediately affect intrastate competition.

The Commission has exercised declaratory ruling authority before state rules have been applied or even enacted. For example, the Commission has acted on a petition for declaratory ruling regarding preemption when the state has not yet enforced a statute regulating interstate and foreign operator service providers, seeing no reason to wait until enforcement actions have begun.⁷⁹

Most illustrative, the Commission has issued declaratory rulings with the effect of preempting an *advisory opinion* of the Nebraska Attorney General and a *proposed*, but not yet final, regulation by the North Carolina Commission in *Telerent Leasing Corp.*⁸⁰ In *Telerent Leasing*, the North Carolina Commission gave notice of a proposed rule that would have prohibited the interconnection of customer-provided equipment to the communications system of any telephone company doing business in North Carolina and such telephone company could only allow such interconnection to separate facilities dedicated only to interstate use.⁸¹ Meanwhile, the Nebraska Attorney General advised the Nebraska Commission that the FCC's decision in *Carterphone*, 13 F.C.C.2d 420 (1968), did not prevent a telephone company from prohibiting interconnection of customer-provided equipment for intrastate use.⁸² The Commission determined it was

⁷⁹ See *In re Operator Servs. Providers of Am.*, 6 FCC Rcd 4475, 4479 (1991).

⁸⁰ See *In re Telerent Leasing Corp.*, 45 F.C.C.2d 204 (1974), *aff'd*, *N.C. Utils. Comm'n v. FCC*, 537 F.2d 787 (1976).

⁸¹ *Id.* at 204.

⁸² *Id.*

appropriate to adjudicate the petition for declaratory ruling even though there was no legally binding law, stating:

21. Before addressing the specific legal and jurisdictional issues involved in this proceeding, we first take note of the questions raised as to the appropriateness of a declaratory ruling by the Commission designed to clarify the jurisdictional scope and effect of our Carterfone ruling and the tariffs filed in implementation thereof. In this regard, we are not obliged to, nor do we deem it appropriate to, await some definitive action by a State or a carrier which creates a conflict between Federal and State regulation having the ingredients of a conventional "case or controversy" before issuing such a ruling. As an administrative agency, we are vested by statute with broad and discretionary powers to devise and use procedures, such as the issuance of declaratory judgments, as may be reasonably appropriate to discharge our statutory responsibilities with respect to effective regulation of interstate and foreign communication, including the clarification of the scope and effect of rulings issued by us in the performance of those responsibilities. . . .

22. We believe that it is particularly appropriate in the instant case to take action by way of a declaratory judgment in order to remove or alleviate the uncertainty and confusion that has been created with respect to the application and effects of our Carterfone ruling by the NCUC proposed Rule R9-5 and the advisory opinion of the Attorney General of Nebraska. *We believe that it would be contrary to the public interest to await the formal adoption and implementation of those State actions before dealing with the conflicts and confusion that such threatened actions have already generated.* The course being pursued by NCUC and the Attorney General of Nebraska, and possibly by other States, is a source of great controversy and confusion for manufacturers and users of customer-provided communications equipment and also casts doubt on the continuing efficacy, application and effects of Carterfone and the effective tariffs on file with this Commission in implementation of Carterfone. We would be remiss in the discharge of our broad statutory responsibilities to remain passive in the face of the policy

and regulatory confusion which permeates the entire field
of interconnection as a result of these State actions.⁸³

The Commission issued the declaratory ruling to the extent that each of the advisory opinion and the proposed regulation attempted to regulate facilities that were used to provide both interstate and intrastate service, based on its earlier decision in *Carterphone*.⁸⁴ The Fourth Circuit agreed that the Commission's adjudication of the advisory opinion and proposed rule was not premature.⁸⁵

⁸³ *Id.* at 213-214 (footnotes and citations omitted; italics added).

⁸⁴ *Id.* at 215.

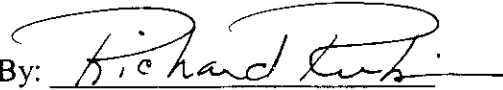
⁸⁵ *See N.C. Utils. Comm'n v. FCC*, 537 F.2d 787, 790 n.2 (1976) ("We have considered and have found no merit in an argument that the Commission's resort to a declaratory order was premature and unwarranted because state agencies are merely threatening to prohibit or restrict the use of customer-provided terminal equipment and have not yet imposed any such restriction. . . .").

III. CONCLUSION

For the foregoing reasons, TLD respectfully requests that the Commission issue a ruling declaring that: (1) approval by the Puerto Rico Board of PRTC's Single Zone Plan as described herein would be a violation of Section 253(a) of the Act and thus subject to preemption under Section 253(d) of the Act, or, if the Puerto Rico Board allows the Single Zone Plan to go into effect prior to a ruling on this Petition, that the Single Zone Plan is preempted under Section 253; and (2) the Single Zone Plan is impermissible as discussed in this Petition.

Respectfully submitted,

TELEFÓNICA LARGA DISTANCIA DE
PUERTO RICO, INC.

By: 

Richard Rubin

David S. Turetsky

Brett A. Snyder

LeBoeuf, Lamb, Greene & MacRae LLP

1875 Connecticut Avenue, NW

Washington, D.C. 2000-5728

(202) 986-8000

December 20, 2005

EXHIBIT A

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Telefónica Larga Distancia)	
de Puerto Rico, Inc.)	WCB Docket No. _____
)	
Petition for Expedited Declaratory Ruling)		
Under Section 253 of the)	
Communications Act of 1934, as amended)		

DECLARATION OF RODRIGO ANGULO GÓMEZ-MARAÑÓN

I, Rodrigo Angulo Gómez-Marañón, under penalty of perjury declare and say as follows:

1. I am Commercial Vice President for Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD"). I hold a Master of Business Administration from Universidad Adolfo Ibáñez, and Bachelor's degree in Industrial Civil Engineering from the Universidad de Chile. While at TLD, I have held the positions of Director of Marketing and Sales (2001-2004) and Vice President of Residential, Small Office/Home Office and Enterprises Customers (2004-2005). A copy of my résumé is provided as Attachment 1.

2. TLD is an intrastate, interstate (between Puerto Rico, the U.S. Virgin Islands, and other domestic points), and international (between Puerto Rico, the U.S. Virgin Islands, and international points) carrier. TLD is an indirect subsidiary of Telefonica Internacional S.A. ("TISA"), wholly owned subsidiary of Telefonica S.A., the Spanish global telecommunications company with communications operations throughout the world. TISA purchased TLD in 1992 from Puerto Rico Telephone Authority, which was also the holding company of PRTC at the time. In 1999, TLD entered the intrastate long distance market after the enactment of the Telecommunications Act of 1996 and Puerto Rico's Law 213. TLD is a competitive provider of

long-distance service in Puerto Rico, providing intrastate (intra-island), interstate, and international telecommunications service to both residential and business customers. TLD also provides limited local exchange service to business customers through PRTC resale.

3. TLD is a facilities based carrier. Since 1992, TLD has made approximately \$47.5 million in capital expenditures for facilities related to its long-distance service.

4. Upon information and belief, the Puerto Rico Telephone Company ("PRTC") maintains a virtual monopoly islandwide in the residential local exchange services market, holds an extremely dominant position in the business local exchange services market and is dominant in the intrastate long distance services market where it faces the most competition of all telecommunications markets in Puerto Rico. Upon information and belief, long-distance service competitors of PRTC have, in the aggregate, an approximately 38% share of the intrastate market. A significant portion of TLD's overall revenues are derived from providing intrastate long distance service.

5. Upon information and belief and as PRTC itself has stated, there is no significant competition for PRTC in providing local exchange service.¹ As the *2005 Local Competition Report* attests, there is only one facilities-based competitive local exchange carrier of any size in Puerto Rico.² However, this carrier only provides service only to business customers and only competes in 20% of the zip code areas on the island.³

6. I have read and am familiar with the plan of PRTC, filed with the Puerto Rico Telecommunications Regulatory Board on April 5, 2005, (the "Single Zone Plan"). The Single

¹ See Letter from Nancy J. Victory of Wiley, Rein & Fielding LLP, on behalf of PRTC, to Jeffrey Carlisle, Chief, Wireline Competition Bureau, at 1, CC Docket No. 96-45 (March 29, 2005) ("PRTC Letter").

² See *Local Telephone Competition: Status as of December 31, 2004* at Table 12 (July 2005).

³ See *id.* at Table 16; See also PRTC Letter.

Zone Plan contains three separable components packaged together by PRTC for its own business purposes. Those components are: (1) a mandatory islandwide local calling zone; (2) rationalization of current geographically-based local rate scales; and (3) rebalancing of local residential and business rates. The Single Zone Plan presents consumers with only two service options: (A) unlimited islandwide calling, for \$26.45 monthly; and (B) 100 minutes of islandwide calling with excess minutes charged at three cents per minute, for \$16.95 monthly. In either case, the cost of the plan exceeds what [many] consumers are currently paying for residential local exchange service.

7. PRTC currently offers a series of service plans which allow its subscribers choices in price and coverage, among other things. The most basic plan enables consumers to subscribe only to PRTC's residential local exchange service, thereby allowing such consumers to identify their preferred provider of intrastate long distance services. Other current PRTC plans, like the Single Zone Plan, offer consumers unlimited islandwide calling at a monthly rate. Unlike the service options under the Single Zone Plan, however, the current plans do not require subscribers to pay for islandwide calling (a bundle of local exchange and intrastate long distance services).

8. If the Single Zone Plan goes into effect, the injury to TLD will be serious and immediate. Advertisements by PRTC published earlier in 2005 (before the extension of the effective date of the Single Zone Plan to January 2006) stated that all customers currently using PRTC's Unlimited Service would be automatically transferred to the Unlimited Plan, and that all customers currently using PRTC's Measured Service would be automatically transferred to the Per Minute Plan. A copy of the advertisement is provided at Attachment 2. The Single Zone Plan would define the intrastate long distance services market completely out of existence.

Under either Single Zone Plan service option, PRTC's captive residential local exchange customers would be required to pay PRTC for what has always been and is now intrastate long distance service in order to continue to receive residential local exchange service from the only provider of that service. No customers will pay twice—once to PRTC and once to TLD—for the same service. Therefore, if the Single Zone Plan is permitted to go into effect, customers would discontinue using any carrier other than PRTC for intrastate long-distance service. Because of PRTC's monopoly in the residential local exchange market, this would, by PRTC's own admission, encompass almost all residential local exchange services customers in Puerto Rico.

9. Entry by TLD into the residential local exchange market under existing conditions is not an alternative. First, provision of residential local exchange services on a wide scale has never been a part of TLD's business plan. Second, the fact that no other carrier has chosen to enter the Puerto Rico residential local exchange services market in competition with PRTC reflects the serious structural and commercial impediments that exist. Third, the historical unwillingness of PRTC to enter into the interconnection and other arrangements necessary for viable competitive entry is a long standing obstacle. Fourth, even if the structural, commercial and attitudinal impediments were overcome, entry into the residential local exchange services market and provision of a viable bundle of services would be extremely time consuming while the loss of a intrastate long distance service client base by an existing competitive carrier such as TLD would be virtually immediate upon implementation of the Single Zone Plan.

10. I have read and am familiar with the Petition for Expedited Declaratory Ruling to which this Declaration is appended and is to be filed with the Federal Communications Commission. The facts alleged therein are true and correct to the best of my knowledge and belief.

[Executed version to be submitted promptly upon receipt]

Rodrigo Angulo Gómez-Marañón

Dated: December ____, 2005

ATTACHMENT 1

RODRIGO ANGULO GÓMEZ-MARAÑÓN

ANTECEDENTES DE ESTUDIO

Post Grado (1996) Master of Business Administration, MBA, Universidad Adolfo Ibáñez.
Educación Universitaria (1991) Ingeniería Civil Industrial, Universidad de Chile.

ANTECEDENTES LABORALES

TELEFÓNICA LARGA DISTANCIA DE PUERTO RICO, PUERTO RICO.

Feb05 – a la Fecha: Vicepresidente Comercial de Puerto Rico

- Responsable de todas las operaciones comerciales de Telefónica North America en Puerto Rico para todos los segmentos (Residencial, SOHO, Empresas y Wholesale) y los productos (voz, datos y servicios de valor agregado).

Mar04 – Ene05: Vicepresidente Clientes Residenciales y SOHO

- Responsable del estado de resultados de la Unidad de Negocios de Clientes Residenciales y SOHO (Small Office Home Office), para los servicios de Larga Distancia e Internet.

Nov.00 – Feb04: Director de Marketing y Ventas

- Responsable de todas las actividades de Marketing y Ventas al detalle. Considera desde el desarrollo e implementación de la estrategia comercial en Puerto Rico e Islas Vírgenes Americanas, con responsabilidad directa por la identificación de Clientes objetivos, seguimiento de la competencia, desarrollo de productos y su ciclo de vida, estrategias de precios, planes de retención, canales de distribución, fuerza de ventas directa, telemarketing y Servicio al Cliente.
- Desarrollo y puesta en servicio de nuevos negocios: Reventa de Servicio Local y Unbundled Network Elements -UNE-.

TELEFÓNICA INTERNACIONAL, ESPAÑA.

May.99 - Oct.00: Jefe de Proyectos para el Area de Latinoamérica

- Responsable de dirigir y coordinar, desde la perspectiva comercial, la creación de las TData Nacionales en Argentina, Brasil, Chile y Perú, con el objetivo de potenciar el negocio de comunicaciones de empresas, dando origen a una nueva línea de negocios en Telefónica.
- Seguimiento a la gestión comercial de las empresas de telefonía fija del Grupo Telefónica en Latinoamérica y coordinación de proyectos para su implantación.

COMPAÑÍA DE TELECOMUNICACIONES DE CHILE S.A., CHILE

Dic.98 - May.99: Líder Proyecto Cambio de Marca: CTC a TELEFONICA - Marketing Corporativo

- Responsable de elaborar el planteamiento estratégico para el cambio de marca que fue aprobado en el Directorio y en la Junta de Accionistas de CTC, así como su posterior ejecución.

Mar.98 - Dic.98: Consultor de Negocio Experto - Marketing Corporativo

- Participar en la elaboración y discusión del Plan de Marketing de Telefónica Móvil, así como evaluar su situación competitiva y proponer estrategias, acciones a seguir y su posterior análisis de los resultados obtenidos.

Sep.97 - Mar.98: Jefe Departamento Estudios de Mercado

- Proponer a los Segmentos y Areas de Negocio de CTC acciones de investigaciones de mercado que les permitan disponer de información de sus actuales y potenciales Clientes, así como de la competencia, para realizar acciones en el mercado.
- Gestionar internamente todas las investigaciones de mercado requeridas por CTC así como la relación con las agencias de Estudios de Mercado.

Jun.94 - Sep.97: Asistente del Vicepresidente de Planificación Estratégica

- Asistir al Vicepresidente en diversas materias de Planificación Estratégica, entre ellas:
 - o Analizar la Alianza TELEFONICA–BT–MCI y las oportunidades de negocio y requerimientos para CTC.
 - o Analizar la licitación de bandas de frecuencia para PCS en Estados Unidos como base para el debate de PCS y la licitación de espectro de frecuencia en Chile.

Dic.91 - Jun.94: Especialista en Planificación Corporativa

Marco Regulatorio

- Participar en el diseño de la postura estratégica de CTC frente a los proyectos de modificación de la Ley General de Telecomunicaciones.
- Elaborar el plan estratégico de cobertura legal (concesiones, permisos y autorizaciones) para los actuales y potenciales negocios de la Corporación.

Negociación Tarifaria

- Participar en el proceso de determinación de las tarifas de CTC para el quinquenio 94-99, preparando y analizando la información que fue utilizada en el Estudio Tarifario de CTC, así como la elaboración de las Bases Técnico-Económicas presentadas a SUBTEL.

Plan Empresa Corporación CTC

- Participar en la definición y análisis de los desafíos estratégicos y opciones relevantes para el negocio de comunicaciones móviles en la Corporación.

ATTACHMENT 2

~~PLAN~~ ILIMITADO O

PLAN ~~ILIMITADO~~ POR MINUTO

A partir del 1ero de julio, PRT ofrecerá dos nuevos planes cuando Puerto Rico se convierta en una sola zona de llamadas locales.

PLAN ILIMITADO
\$26.45 al mes
Llamadas sin límite
a todo Puerto Rico

Todo cliente con **Servicio Ilimitado** en la actualidad será transferido automáticamente al **Plan Ilimitado**. *

PLAN POR MINUTO
\$16.95 al mes
100 minutos a todo Puerto Rico
y 3¢ el minuto adicional

Todo cliente con **Servicio Medido** en la actualidad será transferido automáticamente al **Plan por Minuto**.

SI DESEAS CAMBIAR DE PLAN, puedes hacerlo. Escoge el que más te convenga antes del 25 de junio.

- Llena el cupón que llegará por correo y deposítalo en cualquier oficina comercial de PRT, kiosco DMAX o tienda de Verizon Wireless más cercana.
- Accede a nuestra página en internet: www.telefonicaprt.com
- Llama al 811.

TODO POR RESPONDERTE **PRT**
Puerto Rico Telephone

www.telefonicaprt.com

Aplica solo a clientes residenciales. No aplica a clientes de negocios. Estos planes no incluyen cargos por llamadas a operadoras, 411, 511, 911, 976, llamadas "collect", cargo de acceso por línea de la FCC e impuestos asociados del Fondo de Servicio Universal Local y Fondo de Servicio Universal Federal, ni cargos de larga distancia. Otros cargos reglamentarios pueden aplicar. En el Plan por Minuto, el costo de 3¢ el minuto adicional es en cualquier momento del día. Los cargos por minutos no son fraccionados y se redondean al próximo minuto. Los cargos de larga distancia fuera de Puerto Rico serán facturados por su proveedor de larga distancia. *Excepto los clientes que residan en Culebra, Florida, Javuya, Las Marias, Maricao, Maunabo y Vieques que serán transferidos automáticamente al Plan por Minuto. Cargos de \$25.00 por cambios en la selección de su plan pueden aplicar después del 1ero de octubre de 2005. Dicho cargo no es reembolsable. Otras limitaciones contenidas en la tarifa de una sola zona de llamadas pueden ser aplicables. MKT-05-2005-9948

ATTACHMENT 3